

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 712 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

PATEL KANUBHAI NARANBHAI

Appearance:

MR BY MANKAD ADDL PUBLIC PROSECUTOR for Petitioner

MR DK DESAI for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 22/10/1999

ORAL JUDGEMENT

#. Heard Mr.B.Y.Mankad, learned APP for the State. He fairly concedes that the acquittal recorded by the learned Special Judge is in accordance with the law but the observations made by the learned Special Judge in Para 17 of the judgment that the complainant has taken advantage illegally and by indulging into the mal practices, has obtained compensation of Rs.2000/-, was not warranted. Mr.Mankad, learned APP submits that the

amount of compensation to a member belonging to group of scheduled caste and scheduled tribes are paid some token amount of compensation under the principles of victimology. It is not necessary that in each such case, the prosecution must prove the guilt beyond doubt. Commission of offence qua such member of schedule caste and schedule tribes is one thing and failure to prove the incident of atrocity defined in Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1988 convincingly before the Presiding Officer of a Court is another thing. Compensation is paid not under any statutory provisions but as per the policy laid down by the State. Powers of Special Court who is conducting such criminal cases under the Atrocities Act [Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1988] is empowered to pass certain order and the accused can be asked to pay the compensation. Here in this case, the compensation paid to the victim lady was not ordered to be paid from the pocket of the accused so that the Court had no jurisdiction to ask the State Government and / or to give direction to State of Gujarat to recover the amount of compensation paid to the complainant Shardaben Rathod.

#. Considering the scheme of the Act and nature of the complaint filed by the complainant - Shardaben and the evidence discussed by the learned Special Judge while acquitting the accused, I am of the view that the order directing the State Government to recover the amount of compensation of Rs.2,000/- given to Shardaben is without jurisdiction and beyond the scope of the Court which had conducted the trial. So, direction given vide order dated 21st September, 1998 while concluding the trial in Special Atrocities Case No : 46 of 1998 of District Mehsana is turn down and the State is relieved from obligation cast on it by the impugned order.

#. But it is clarified that it will be open for the State Government to make use of the observations made in the judgement of the trial court, if it intends to recover the amount. Before parting with the order, according to me, one aspect if noted, would be proper is that the learned Special Judge has not ordered to prosecute this Shardaben for filing false case.

#. Rule granted earlier is made absolute to above extent only. Rest of the part of the judgment remains undisturbed.

Date : 22-10-1999 [C.K.Buch, J.]

#kailash#